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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

4. The Respondent is Thyssenkrupp Stahl Company, formerly known as Stahl Specialty Company (hereafter "Respondent").

Statutory and Regulatory Framework

5. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits discharge of pollutants from a point source into navigable waters of the United States, except in compliance with, *inter alia*, Sections 307 and 402 of the Act, 33 U.S.C. §§ 1317 and 1342. Section 402 provides that pollutants may be discharged into navigable waters of the United States only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that section. Section 307 provides for the promulgation of regulations establishing pretreatment standards for introduction of pollutants into publicly owned treatment works ("POTW").

6. Pursuant to Section 307(b) of the Act, 33 U.S.C. § 1317(a), EPA promulgated regulations at 40 C.F.R. Part 403 establishing the General Pretreatment Regulations and at 40 C.F.R. Parts 405 through 471 establishing the Point Source Categorical Standards. These regulations and standards are designed to regulate the introduction into POTWs of pollutants which are determined not to be amenable to treatment by such treatment works or which could interfere with the operation of such treatment works.

7. The Missouri Department of Natural Resources ("MDNR") is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the Act, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding dated October 30, 1974. MDNR is also the state agency with the authority to administer the Pretreatment Program in Missouri pursuant to Section 402 of the Act, implementing regulations, and a Memorandum of Understanding dated June 3, 1981. As such, MDNR is the Approval Authority as defined by 40 C.F.R. § 403.3(c) and the Control Authority as defined by 40 C.F.R. § 408.12(a). EPA maintains concurrent enforcement authority with authorized state NPDES and Pretreatment programs for violations of NPDES permits and Pretreatment Program requirements.

Factual Background

8. The City of Kingsville (hereafter "City") owns and operates a Publicly Owned Treatment Works ("POTW") in Johnson County, Missouri. The wastewater treatment plant is a "point source" that "discharges pollutants" to a tributary of Big Creek, which is considered "navigable waters of the United States," respectively as defined within Section 502 of the Act, 33 U.S.C. § 1362.

9. On or about November 1, 2002, NPDES Permit No. MO-0025844 was issued to the City by the MDNR pursuant to Section 402 of the Act, 33 U.S.C. § 1342, which contains limitations for discharges of effluent from the POTW to waters of the United States.

10. Respondent is a Missouri corporation, registered and licensed to do business in the state of Missouri. Respondent's registered agent for service in Missouri is Jack R. Moore, 111 East Pacific, P.O. Box 6, Kingsville, Missouri 64061-0006.

11. Respondent is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

12. At all times relevant, Respondent has owned and operated a manufacturing facility located at 111 E. Pacific, Kingsville, Missouri 64061, at which Respondent performs casting of molten aluminum metal, making numerous parts for the automobile industry.

13. Respondent discharges wastewater from its manufacturing facility into the City's POTW, and is therefore an "Industrial User" as defined at 40 C.F.R. § 403.3(t).

14. Aluminum casting is a regulated process under the federal Categorical Standards as defined by the General Pretreatment Regulations at 40 C.F.R. § 403.6.

15. Respondent is subject to the General Pretreatment Regulations at 40 C.F.R. Part 403 and the Metal Molding and Casting Point Source Category Pretreatment Standards at 40 C.F.R. § 464.15.

16. 40 C.F.R. § 403.12(e) requires Respondent to sample for pollutants regulated under the applicable Categorical Pretreatment Standard – Metal Molding and Casting Point Source Category– not less than twice per year. The pollutants so identified at 40 C.F.R. § 464.15 are copper, lead, zinc, total phenols and total toxic organics (TTO).

17. Respondent is subject to 40 C.F.R. § 403.12(e) which requires submission of a semi-annual report to the Control Authority (MDNR) regarding continued compliance with the applicable Categorical Pretreatment Standards, as determined by sampling described in Paragraph 13 above.

18. On or around February 14, 2002, the United States Environmental Protection Agency ("EPA") performed an inspection of Respondent's facility under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). Included in the inspection was a review of Respondent's compliance with sampling and reporting requirements.

19. At the conclusion of the EPA inspection identified in Paragraph 18 above, the EPA inspector provided a Notice of Potential Violation to Respondent dated February 14, 2002. Respondent's representative signed the notice to indicate receipt. Among other things, the notice identified Respondent's "failure to monitor and report effluent characteristics semiannually to MDNR as an aluminum casting and molding categorical industry according to 40 CFR Part 464."

Findings of Violation

20. The facts stated in Paragraphs 8 through 19 above are incorporated herein by reference.

Count 1

21. Respondent is required to conduct semi-annual monitoring to determine the nature and concentration of the pollutants copper, lead, zinc, total phenols and TTO in its effluent pursuant to the General Pretreatment Regulations at 40 C.F.R. § 403.12(e) and the Metal Molding and Casting Point Source Category Pretreatment Standards at 40 C.F.R. § 464.15.

22. Respondent failed to sample and analyze for copper, lead, zinc, total phenols and TTO from at least June 1998 through February 14, 2002, when EPA performed the inspection identified in Paragraph 15 above.

23. Respondent's failure to sample and analyze for pollutants as described in Paragraphs 21 and 22 above, is a violation of the 40 CFR §§ 403.12(e) and 464.15, and Section 307(d) of the Act, 33 U.S.C. § 1317(d).

24. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), and the facts stated above, it is proposed that a civil penalty be assessed against Respondent, the amount of which is consolidated with the proposed penalty for Count II, as set forth in Paragraph 30 below.

Count 2

25. Respondent is required to submit semi-annual reports on continued compliance to the Control Authority (MDNR) pursuant to 40 CFR § 403.12(e).

26. Respondent failed to submit semi-annual reports on continued compliance as required by 40 C.F.R. Part 403.12(e) to its Control Authority (MDNR), from at least June 1998 through April 2003.

27. Respondent's failure to submit semi-annual reports on continued compliance as described in Paragraphs 26 and 27 above, is a violation of the 40 CFR §§ 403.12(e) and 464.15, and Section 307(d) of the Act, 33 U.S.C. § 1317(d).

28. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), and the facts stated above, it is proposed that a civil penalty be assessed against Respondent, the amount of which is consolidated with the proposed penalty for Count I, as set forth in Paragraph 30 below.

Relief

29. Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum total penalty of \$125,000. Under the Civil Monetary Penalty Inflation Rule, codified at 40 C.F.R. Parts 19, civil administrative penalties of up to \$11,000 per day for each day during which the violation continues, not to exceed \$137,500, may be assessed for violations of the CWA occurring after January 30, 1997.

30. Based on the foregoing Findings of Violations, and pursuant to Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), EPA Region VII hereby proposes to issue a Final Order Assessing an Administrative Penalty against the Respondent for the violations cited above, in the amount of Forty-five Thousand Dollars (\$45,000).

31. The penalty proposed in Paragraph 30 above is based on the facts stated in this Complaint, and the following factors listed in Section 309(g)(3) of the CWA,: the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violations and such other matters as justice may require in accordance with the CWA.

32. The proposed penalty as set forth in this Complaint is based on the best information available to EPA at the time the Complaint was issued. The penalty may be adjusted if the Respondent establishes bonafide issues of ability to pay, or other defenses relevant to the appropriate amount of the proposed penalty.

33. If Respondent does not contest the findings and assessments set forth above, Respondent may within thirty (30) days of receipt of this Complaint, make payment of the penalties assessed herein, remitted as follows:

Payment of the penalty \$45,000 may be made by certified or cashier's check payable to "Treasurer, United States of America" and remitted to:

EPA - Region VII
Attn: Regional Hearing Clerk
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251

The check should reference the name and docket numbers of this Complaint.

34. EPA has notified the state of Missouri regarding this proposed action by mailing a copy of this document to the Director, Division of Environmental Quality, Missouri Department of Natural Resources.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Answer and Request for Hearing

35. Respondent may request a hearing to contest any material fact contained in the Complaint above or to contest the appropriateness of the proposed penalty set forth therein. Such a hearing will be held and conducted in accordance with the Consolidated Rules of Practice

Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, a copy of which is enclosed herein.

36. To avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to hearing, Respondent must file a written answer and request for hearing within thirty (30) days of service of this Complaint and Notice of Opportunity for Hearing. The answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with respect to which Respondent has any knowledge, or shall clearly state that Respondent has no knowledge as to particular factual allegations in this Complaint. The answer shall also state (a) the circumstances or arguments which are alleged to constitute the grounds of defense; (b) the facts that Respondent disputes; (c) the basis for opposing any proposed relief; and (d) whether a hearing is requested. Said answer shall be filed with the following:

Regional Hearing Clerk
United States Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101

37. Failure to admit, deny or explain any material factual allegation in this Complaint constitutes an admission of the allegation.

38. A hearing upon the issues raised by this Complaint and the answer may be held if requested by Respondent in the answer. If Respondent does not request a hearing, the Presiding Officer may hold a hearing if issues appropriate for adjudication are raised in the answer.

39. In any hearing on the proposed penalty for this Complaint, members of the public to whom EPA is obligated to give notice of this proposed penalty action, will have the right, under Section 309(g)(4)(B) of CWA, 33 U.S.C. § 1319(g)(4)(B), to be heard and present evidence on the merits of proposed CWA penalty assessment. If no hearing is held, EPA will issue a Final Order Assessing Administrative Penalties pursuant to CWA, and only members of the public who submitted timely comments on the proposed penalty assessment will have an additional thirty (30) days to petition to set aside the said Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioners' evidence is material and was not considered by EPA in the issuance of the Final Order.

40. If Respondent fails to file a written answer within thirty (30) days of service of this Complaint and Notice of Opportunity for Hearing, Respondent may be found in default. Such default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. A Default Order may thereafter be issued by the Presiding Officer and the civil penalties proposed herein shall become due and payable unless the record clearly demonstrates that the requested relief is inconsistent with the CWA.

Informal Settlement Conference

41. Whether or not Respondent requests a hearing, an informal conference may be requested in order to discuss the facts of this case, the proposed penalty, and the possibility of settlement. To request a settlement conference, please contact:

Patricia Gillispie Miller
Senior Assistant Regional Counsel
United States Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101
Telephone 913/551-7283

42. Please note that a request for an informal settlement conference does not extend the thirty-day period during which a written answer and request for a hearing must be submitted.

43. EPA encourages all parties against whom a civil penalty is proposed to pursue the possibilities of settlement as a result of informal conference. Any settlement which may be reached as a result of such a conference shall be embodied in a written Consent Agreement and Consent Order issued by the Regional Judicial Officer, EPA Region VII. The issuance of such a Consent Agreement and Consent Order shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated therein.

44. If Respondent has not filed an answer within the thirty (30) day time period allowed by this Notice, the penalties proposed above may be assessed by the entry of a Default Order.

04/22/03
Date

for Betty J. Berry
Carol Kather, Acting Director
Water, Wetlands, and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101
Patricia Gillispie Miller
Patricia Gillispie Miller
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101

Enclosures: Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, as revised.

Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings

Information Sheet: U.S. EPA Small Business Resources

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Complaint, Notice of Proposed Penalty and Notice of Opportunity for Hearing to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 N. 5th Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent by certified mail, return receipt requested, a true and correct copy of the signed original Complaint, Notice of Proposed Penalty and Notice of Opportunity for Hearing to:

Jack R. Moore, President
Thyssenkrupp Stahl Company
111 East Pacific
P.O. Box 6
Kingsville, Missouri 64061-0006

Scott B. Totten
Water Protection and Soil Conservation Division
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102-0176

April 24, 2003
Date

Abby White

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

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Return Receipt Fee (Endorsement Required)	
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APR 23 2003
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Total Paid	Jack R. Moore, President
Sent To	CWA-07-2003-0132, CWA-07-2003-0133
Street, Apt. or PO Box	Thyssenkrupp Stahl Company
City, State	111 East Pacific, P.O. Box 6
	Kingsville, MO 64061-0006